

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANK NALI,

Plaintiff,

v.

Case No. 06-10205

MICHIGAN DEPARTMENT OF
CORRECTIONS, et al.,

HONORABLE AVERN COHN

Defendants.

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ORDER
ADOPTING REPORT AND RECOMMENDATION
AND
GRANTING DEFENDANTS DR. LOUIS NINO AND CORRECTIONAL MEDICAL
SERVICES' MOTION TO DISMISS

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff is pro se and proceedings in forma pauperis. On January 17, 2006, plaintiff filed a 23 page complaint naming 23 defendants with 269 paragraphs and 164 pages of exhibits. He seeks over a million dollars in damages. Plaintiff raises several claims regarding the denial of proper medical care. He also brings multiple claims regarding his custody and certain correctional staff unrelated to his medical claims.

The matter has been referred to a magistrate judge for pre-trial proceedings, and before whom Dr. Louis Nino and Correctional Medical Services (CMS) filed a filed a motion to dismiss or for summary judgment essentially on the grounds that plaintiff has not exhausted his administrative remedies and/or fails to state a claim. On February 27, 2008, the magistrate judge issued a detailed report and recommendation (MJRR) that the motion be granted.

Before the Court are plaintiff's objections to the MJRR, to which Dr. Nino and CMS have responded. Having reviewed the matter in accordance with 28 U.S.C. § 636, the Court agrees with the magistrate judge that plaintiff did not properly exhaust his administrative remedies with respect to Dr. Nino and CMS. The Court also finds, giving a liberal reading to plaintiff's claims, that plaintiff has not stated a viable claim under § 1983 against these defendants. Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Defendants' motion is GRANTED.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: March 28, 2008

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record and Frank Nali, 449422, Pugsley Correctional Facility, 7401 E Walton Road Kingsley, MI 49649 on this date, March 28, 2008, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160